

MINUTES OF THE CITY PLANNING COMMISSION
J. MARTIN GRIESEL CONFERENCE ROOM
January 21, 2005
9:00AM

CALL TO ORDER

Caleb Faux called the meeting to order at 9:10 am, with the following present:

Commission Members:

Terry Hankner, Curt Paddock, Valerie Lemmie, Jacquelyn McCray, Donald Mooney and James Tarbell.

Community Development and Planning Staff:

Margaret Wuerstle, Lenny Adkins, Larry Harris

Law Department:

Julia Carney

MINUTES

Minutes from the January 7, 2005 Planning Commission were submitted for approval.

Motion:	By Ms. Lemmie to accept the minutes as written
Second:	Ms. Hankner
Vote:	All ayes (7-0), motion carried

CONSENT ITEMS

There were no consent items.

DISCUSSION

ITEM #1 A report and recommendation on a six-month extension of Interim Development Control (IDC) Overlay Districts #58 and #59 in North Avondale.

SUBJECT:

Senior City Planner, Larry Harris presented a report and recommendation on a six-month extension on Interim Development Control (IDC) Overlay Districts #58 and #59 in North Avondale.

BACKGROUND:

In February 2004 City Council conditionally adopted a newly rewritten Cincinnati Zoning Code. One of the conditions for adoption was to place an Interim Development Control (IDC) overlay district on all sites in the City that had been "Transition Zoning Districts" with land use restrictions, and some RMX districts created by the new Zoning Code. Two such overlay districts were created in North Avondale, IDC #58, for the RMX zoning district located between Greenwood Avenue and South Fred Shuttlesworth Circle, and IDC #59, for two Transition Zone districts in the North Avondale Reading Road Business District located at Paddock Road and Reading Road. These IDC overlay districts were designated for one year from the date of adoption of the revised code. On February 13, 2004 the new code became effective and therefore, the two IDC districts in North Avondale are due to expire on February 13, 2005.

The extensions of IDC #58 (RMX District) and IDC #59 (Transition Zone Districts) are requested because 1) the study of proposed amendments to the code are complex, 2) consideration of the proposed amendments is not complete, and 3) the prospect exists for a change in use of existing structures would be inconsistent with preliminary neighborhood plans approved by the City Planning Commission (CPC).

ANALYSIS:

The staff held a public conference on December 27, 2004 to hear testimony on the proposed extension of IDC #58 and #59. Advanced notice on the date and time of the conferences was given to the public by regular mail. No one from the public attended either conference. Staff did receive phone calls from one affected property owner and members of the community council for North Avondale. They all requested a rescheduling of the conference for IDC #59 because the date closely followed the Christmas holiday. It was not possible to reschedule the conference and facilitate City Council consideration of the matter before the IDC expiration date. Staff recorded the comments on the IDC extension issue for consideration in this report.

Two additional calls were received from affected property owners in the area of IDC #58. Both callers were requesting information on the purpose of the extension and the need to attend the conference. The callers were briefed accordingly and encouraged to attend the conference. Their comments were also recorded for consideration in this report.

IDC #58: The zoning study for IDC #58 is complex and involves the selective placement on only one RMX district in North Avondale. The basis of the zoning study is the consideration of a “large-lot” RMX district with more restrictive regulations for minimum lot requirements for sites in the area. This RMX area in North Avondale is transitioning, with a mix of multi-family residential structures and single-family structures. Past land use changes in the area included conversions of single-family units to multi-family. The more recent trend in the area is converting multi-family units to single-family uses. The complexity of the study is the social impact of recommending specific guidelines for minimum lot requirements that reflect the changing density in the area, while protecting the rights of property owners of both single and multi-family structures. The RMX zoning study is ongoing and incomplete. Staff has not presented its findings and conclusions to the CPC. The prospect of alterations or demolition of structures or construction of new units in the RMX study area is a continuing concern to the community. Without the IDC in place, new development could propose land uses inconsistent with the preliminary objectives approved by the CPC.

IDC #59: The commercial zoning on the subject properties and their proximity to existing low-density single-family areas complicate the study of the Transition Zone areas in the Reading Road Business District of North Avondale. The transition zone sites are at a unique geographic location where two major arterials, Reading Road and Paddock Road meet to create parcels with multiple street frontages. On December 17, 2004 the CPC approved the staff findings and recommendation for a zone change to restrict the commercial land use in the area from CN-M (Commercial Neighborhood-Mixed, pedestrian and auto oriented) to CN-P (Commercial Neighborhood-Pedestrian oriented). The final approval of the zone change has not been approved by City Council. The study is incomplete because City Council must approve the zone changes to complete the study. Without final City Council approval, a proposed change in use of one of the structures in the area would be inconsistent with the findings for the area approved by the City Planning Commission.

FINDINGS: Section 1431-13 (a-c) of the City of Cincinnati Zoning Code allows for an extension of an IDC provided that the following three conditions are met: a) the zoning study is complex, b) the

study is ongoing and incomplete and c) the prospect of changes in use that would create land uses inconsistent with CPC approved findings or objectives for an area. Analysis of the two IDC study areas shows that the conditions exist to extend the duration of IDC #58 and IDC #59 for an additional six-month period.

CONCLUSION: The staff conferences were scheduled and all affected parties were notified by mail and invited to attend. The notices provided three methods of contact to the staff for information or to voice comments on the issue. Phone calls were received and comments were recorded relative to the proposed extensions. One affected property owner in IDC #59 stated his objection to the extension by phone. None of the affected property owners in IDC #58 objected to the extension.

RECOMMENDATION:

The staff of the City Planning Division recommends that the City Planning Commission approve the proposed extensions of the IDC #58 (RMX District) and IDC #59 (Transition Zone Districts) as outlined in the analysis and findings.

There were no objections to extending IDC #58, but there were people wishing to speak for and against IDC #59. Since there was opposition to IDC #59, Mr. Faux called for separate votes on IDC #58 and #59.

Motion:	Mr. Tarbell motioned that IDC #58 be extended as recommended
Second:	Ms. Hankner
Vote:	All ayes (7-0), motion carried

DISCUSSION ON IDC #59

Mr. Harris reiterated the information provided above, and stated that a building permit had been issued for a car wash at that location. However, it went back to the Zoning Board of Appeals where it was overturned and some of the variances were disapproved. The applicant has filed suit in the Hamilton County Common Pleas Court. In addition, another permit was applied for to build a financial institution known as Pay Day Advance.

Ms. McCray asked for a clarification of the property area. Mr. Tarbell discussed other properties in the area. Mr. Paddock asked about the extension process, and if this IDC met the criteria to be extended.

Gerry Kraus, representing the North Avondale Neighborhood Association, addressed the Commission in support of extending IDC #59.

Marvin Kraus addressed the Commission in support of extending IDC #59, and urged the City Manager to have the Solicitor's Office expeditiously prepare the ordinance for the zone change. He also explained the steps that occurred after the carwash permit was submitted and denied.

Eli Ryder, representing Paddock Point LLC and Rick Peskovitz, owner of the property, addressed the Commission in opposition to extending IDC#59. Mr. Ryder stated that on January 10, 2005, Scott Adams, who is a City Planner with Manley/Burke, acting on behalf of the Peskovitz's made a request for all documentation relating to the establishment of the IDC, a public records request and has of yet to received a single document. Mr. Ryder asked the Commission, "how on earth can we respond to this request without having that documentation in hand, with sufficient time, ahead of time, for us to consider them properly. . ." Mr. Ryder went on to discuss two applications for building permits were that were filed before the original IDC was established. Therefore, this extension would have no

bearing on the development of this property. If the Commission proceeds with extending the IDC, Mr. Ryder requests that the ordinance explicitly acknowledge the vested rights of his clients to develop the property in accordance with either of those plans should they ultimately obtain a permit.

Rick Peskovitz, property owner affected by IDC #59, discussed how he purchased the property, and the meetings he had with NANA concerning opportunities to purchase the property, or in the alternative, what NANA would like to see developed on this site. He stated that he had zero offers to purchase. Mr. Peskovitz continued with how he was upset that the last meeting the Commission had concerning the rezoning of this property was not postponed. He stated that he was notified one week prior to the meeting, and that he had tried to get the meeting postponed for one week. He went on to say how the minutes said he had been notified, but that he was never notified about any of the Planning Staff Conferences to decide whether to rezone it. Mr. Peskovitz stated that he received certified mail on December 10, for a meeting that was being held on December 17, but he was scheduled to be out of town on that day.

There was more discussion between the Commissioners and Mr. Peskovitz. Mr. Peskovitz then asked about the timeliness of notifications, and Ms. Lemmie stated that was not a decision of the Board.

Mr. Harris stated that the notifications sent out to Mr. Peskovitz went to the address on the County Auditor's records, and this is the only way City Staff have of knowing where the property owner resides. After a conversation with Mr. Peskovitz, Mr. Harris was told that address was incorrect and was given the correct address. Mr. Harris immediately sent a notification by certified mail to the new address given by Mr. Peskovitz.

Mr. Ryder discussed the 1975 Master Plan, and how the property was rezoned in 1980 to allow for a 7/11 Convenience Store. In 1995 the City developed the Urban Design Plan, which called for a circus development. It is his understanding that the City and the Neighborhood feel that the Urban Design Plan needs to be re-thought.

Ms. Kraus discussed a recent offer to purchase the property from Mr. Peskovitz.

Commissioners and Staff had a lengthy discussion on the steps required in order to recommend extending the IDC, and if the necessary requirements of Section 1431-13 (a-c) of the City of Cincinnati Zoning Code had been met. It was determined that the requirements had been met.

Motion:	Ms. Hankner motioned that IDC #59 be extended as recommended
Second:	Ms. McCray
Vote:	All ayes (7-0), motion carried

OTHER BUSINESS

ITEM #2 Hamilton County Planning Partnership revised Representative Appointment Form

Motion:	Ms. Hankner motioned that Liz Blume should be re-appointed
Second:	Mr. Mooney
Vote:	All ayes (7-0), motion carried

Ms. Lemmie addressed the Commission and Staff concerning the tardiness of getting ordinances to City Council. On behalf of the Planning Commission, she requests that the Chief Planner develop a tracking system to monitor Commission decisions and inform her and the Commission when there are time sensitivity issues. Ms. Lemmie stated that it does the Commission no good to be informed when they missed the window of opportunity. She stated that it makes the City look foolish not getting the basic follow-up work accomplished. Ms. Lemmie said that Ms. Wuerstle was to take the responsibility for letting the Commission know if items were slipping from a time perspective so they could exercise some responsibility as a Commission. Additionally, Ms. Wuerstle was to notify her as the City Manager, of items that were slipping to allow her to adjust priorities to get information to Council in a timely manner.

Ms. Lemmie reiterated the fact that Ms. Wuerstle was to take the responsibility of getting items back on track.

ADJOURN

Motion: Mr. Mooney motioned to adjourn
Second: Ms. McCray
Vote: All ayes (7-0), motion carried

Margaret A. Wuerstle, AICP
Chief Planner
Department of Community
Development & Planning

Caleb Faux, Chair
City Planning Commission

Date: _____

Date: _____